

**UNITED STATES DISTRICT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

THE STATE OF TEXAS

VS

ORLANDO GUTIERREZ

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CR. NO. C-08-637

MOTION FOR DISCOVERY AND INSPECTION

1. The defendant requests the Government Disclose the following evidence:
 - A. Statement(s) of the Defendant: Include the portion of any written record containing the substance of any relevant oral statement made by the defendant whether before or after arrest, in response to interrogation by any person then known to the defendant to be a government agent; the substance of any other relevant oral statement made by the defendant , whether before or after arrest in response to interrogation by any person then known by the defendant to be a government agent if the government intends to use that statement at trial.
 - B. Defendant's Prior criminal Record.
 - C. Documents and Tangible Objects: Including the right to inspect and copy or photograph books, papers, documents, photographs, tangible objects, building or places, or copies or portions thereof, which are with in the possession, custody or control of the Government, and which are material to the preparation of the defendant's defense or are intended for use by the government as evidence in chief at the trial, or were obtained from or belong to the defendant.

- D. Reports of Examinations and Tests: Including the right to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies.
- E. Expert witnesses: Include a written summary of testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief-trial. If the government requests discovery under subdivision (b)(1)(c)(ii) of this rule and defendant complies, the defendant is requesting the government to disclose to the defendant a written summary of testimony the government intends to use under rules 702, 703, or 705 as evidence at trial on the issue of the defendant 's mental condition. The summary provided under this subdivision shall describe the witnesses' opinions, the bases and the reasons for those opinions, and the witnesses' qualifications.
- F. The names of all the alleged victims.
- G. Expert opinions, evidence, documents regarding the value of the cocaine.
United States v. Munoz, 957 F2d 17 (5th Cir. 1992)
- H. Opinion, testimony, reports, laboratory analysis regarding the quality of the cocaine, *United States v. Gonzalez, 121 F3d 928, (5th Cir. 1997)*
- I. Any evidence, documents or reports of distribution or paraphernalia.
United States v. Munoz, 957 F2d 171, (5th Cir. 1992)
- J. Any evidence documents reports of cash found on the Defendant of his arrest reports, *United States v Munoz 957 F2d 171 (5th Cir. 1992)*
- 2. The defendant requests that the government disclose the evidence at least ten days prior to trial.

Respectfully submitted,

By: /s/ Mark Di Carlo

Mark A. Di Carlo

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE AND CERTIFICATE OF CONSULTATION

This is to certify that a true and correct copy of the above-entitled and numbered motion has been served by regular mail, and/or by facsimile, and/or by certified mail, on this 3rd day of November, 2008 to the following:

Rob McDonald
Assistant U.S. Attorney
800 N. Shoreline, Suite 500
Corpus Christi, TX 78476
(361) 888-3111

Counsel attempted to confer with Mr. McDonald on October 31, 2008 by telephone regarding discovery but he was unavailable, and didn't return counsel's phone call as of November 3, 2008.

Respectfully submitted,

By: /s/ Mark Di Carlo
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ATTORNEY FOR DEFENDANT

UNITED STATES DISTRICT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

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CR. NO C-08-637

ORDER ON MOTION FOR DISCOVERY AND INSPECTION

The court having considered the defendant's Motion for Discovery and
Inspection **GRANTS/ DENIES** the motion in the following respects:

_____.

Signed on this _____ day of _____, 2008.

Judge Presiding